

PUBLIC COMMENT

RE "Clean-up" Amendments
to Title 2, Division 6 of the California Code of Regulation

DATE: September 1, 2004 VIA FAX 916 327 2026 ("by 12:00 p.m. ")

Commission Offices
Fair Political Practices Commission
428 J Street, Suite 800
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telephone (916) 322-5660 ~~ATD Kelly Winsor~~

submit my requests for response to comments regarding the following proposed amendments to the CCR.

AMENDMENT/REPEAL/ADDITION	PURPOSE/REASONS GIVEN	Public comment
1.) Repeal entire section 18361 (enforcement of Political Reform Act: Government Code Sections 81000 through 91015) Renumber 18361 and adopt separate regs	"is a <i>broad regulation</i> that governs all aspects of Enforcement Division proceedings" and to "Clean-up"	What will happen to original text of 18361 if it is being renumbered beginning 18361.1 through 18361.2, 18361.3, 18361.4, 18361.5 , 18361.6, 18361.7, 18361.8. The repeal and subsequent amendments will revise the structure, syntax and deletes all cross-reference; Creating separate code sections removes all references and congruity now existing as sub-paragraphs, thus, the removal of <u>all</u> sub sections will destroy the meaning of the regulation it differs in substance from the one repealed and is inconsistent with the public act.
2.) (Renumbering) Amending 18361.5 to "18361.9	"so it will be the final regulation in the resultant series of regulations governing enforcement"	The PURPOSE stated is materially false and clearly has to be renumbered because the original section 18361.5 is being utilized in in another section amendment .
3.) Amend 19702.5(b)(1)(A)		SEE BELOW *

↓
Amend 19702.5(b)(1)(A) To Add the phrase: "*and gives rise to the conflict of interest*" :

REASONS GIVEN "Clarifies the public official does not need to public state every economic interest involved, only the one that is causing his/her recusal. Without this additional language, the regulation is unclear on this particular point. The purpose of these regulations is to implement, interpret and make specific Government Code sections 83108, 83115, 83115.5, 83116, 84206, 84503, 84506, 87100, 87105, 87200, 87207(b), 87302.6, 87407 and 89519.

Add the phrase: "*and gives rise to the conflict of interest*" so that it reads:
California Code of Regulations - Title 2, Section 19702.5(b)(1)(A)

*"(1) The public official shall publicly identify:
(A) Each type of economic interest held by the public official which is involved in the decision and gives rise to the conflict of interest, and"*

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REQUEST IS MADE THAT THE ORIGINAL TEXT BE CORRECTED FIRST!! (as AN AMENDMENT) and PRIOR TO ANY OTHER AMENDMENT and is required in order to further amend, affecting interpretation of fifteen separate Government Code Sections. IT CANNOT BE AMENDED AS IS.

1. The ORIGINAL sub paragraph (A) is ^{more than} grammatically incorrect: the word "which" should be replaced by the word "who" because it is referring to the "public official". The use of "who" or "whom" is used to refer to people and "that" or "which" is used to refer to anything non-human. Exactly what or who is involved in the decision - the type of economic interest held - OR is it the public official that holds an economic interest?

2. Any additional amendment to an already incorrectly drafted code will guarantee serious misinterpretation, affects and has affected other Government Code Sections and cannot even be understood as-it-is-being without any amendments. All parties, causing serious ambiguity, have already been and continue to misinterpret this section.

3. Once the original text is corrected, the public must be given notice and an opportunity to comment on any new/further changes (currently sought).

It is confusing enough as it is, and cannot be amended further to confuse the public. Because it is currently incorrect, it is too confusing for commenter to address, yet attempt is made:

An official cannot be a "which", otherwise it would be a "who" THEREFORE, "each type of economic interest, which [economic interest] is involved in the decision and [which economic interest] gives rise to the conflict of interest held by the public official [who] which is involved in the decision.

The amendment will alter the subject matter [which is unknown] that will also [have to] "give rise to the conflict of interest". It is unknown if the subject matter is a type of interest or an official that holds an interest. No matter what, this will hinder enforcement by staff carry out the purposes and provisions of the Political Reform Act. Will the subject matter and the thing that gives [raise] to the conflict of interest, each have to be the same? If it is altered to claim that that the public official need state only the economical interests that "is causing his/her recusal" how can the person list an economic interest that may occur if it does not happen at the time of their decision?

Thank you for an opportunity to comment on this important matter.

DATED: September 1, 2004, 9:27 AM



N. Fenton
(public member)